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March 9, 2022

By ECF

The Honorable Jesse M. Furman
United States District Judge
Southern District of New York
40 Centre Street, Room 2202
New York, New York 10007

Re: City of Philadelphia v. Bank of America Corp.
22 Misc. 53 (JMF), 22 Misc. 54 (JMF)
Related to: 19 Civ. 1608 (JMF)

Dear Judge Furman:

This firm represents Non-Party Bjorn Johan Rosenberg and two closely-held entities, Edelweiss Fund LLC and Blue Rose Capital Advisors LLC.

We write in connection with the motion to quash third-party subpoenas issued under Rule 45 to Rosenberg, Edelweiss, and Blue Rose filed by Plaintiffs City of Philadelphia and the Mayor and City Council of Baltimore together with their counsel.

Because those motions were originally filed in the District of Delaware and the District of Minnesota and subsequently transferred to this Court, they are docketed under 22 Misc. 53 (JMF) and 22 Misc. 54 (JMF).

In general, the motion seeks to quash various requests in the Rule 45 subpoenas because they seek communications that are protected from disclosure by the attorney-client privilege or the work-product doctrine that the moving parties have asserted. The motion to quash concerns some, but not all, of the many requests in the Rule 45 subpoenas. The pending motion concerns, in part, privileges that belong to Rosenberg, Edelweiss, and/or Blue Rose, all of whom are non-parties to the case before your Honor. *See* 22 Misc. 53, ECF No. 17 at 1 n.1 (referring to specific requests), 4-6, 10-11.

Rosenberg, Edelweiss, and Blue Rose have been in extensive discussions with Defendants to resolve their objections to the requests in the subpoenas, including objections to requests that are also the subject of the already pending motion. We have had a number of lengthy meet and confers. Plaintiffs did not participate in those meet and confers. As part of those negotiations, Rosenberg, Edelweiss, and Blue Rose have offered to produce significant non-privileged documents to Defendants. Those discussions are ongoing.

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The Honorable Jesse M. Furman
March 9, 2022
Page 2

Those discussions, if successful, would entirely resolve or, at least, substantially narrow the issues to be resolved by the Court in connection with the already pending motion.

In order to permit Rosenberg, Edelweiss, and Blue Rose time to complete their discussions with Defendants, we request that Rosenberg, Edelweiss, and Blue Rose be permitted until March 25 to file a motion to quash the subpoenas and in further support of the motion to quash that has already been filed.

Present counsel will be unavailable for part of the period before March 25 on a pre-planned (and twice postponed) vacation out of the country, but will be able to confer with Defendants during that period, if necessary.

Rosenberg, Edelweiss, and Blue Rose submit that: (1) briefly holding in abeyance the pending motion; and (2) permitting Rosenberg, Edelweiss, and Blue Rose to be heard: (a) on the pending motion; and (b) in support of their own motion to quash the subpoenas will allow the Court to more efficiently resolve this discovery dispute and to do so with the full context in mind.

Respectfully submitted,



Daniel W. Levy

Cc: All counsel (by ECF)

Rosenberg, Edelweiss, and Blue Rose shall file any motion to quash on or before March 25, 2022, and, if they do not intend to file a motion, shall inform the Court by letter on or before March 25, 2022.

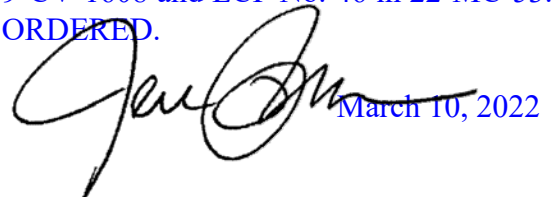
SO ORDERED:

The Honorable Jesse M. Furman
United States District Judge

Dated: March ____, 2022

Application GRANTED in part. Defendants and non-parties Rosenberg, Edelweiss and Blue Rose shall file a joint status letter by **March 21, 2022**, updating the Court on the meet and confer process. In that letter, the non-parties shall also state whether they intend to file a motion to quash. The Court will defer decision on the pending motions pending the update on March 21st.

Future filings regarding the subpoenas shall be filed only in Docket No. 22-MC-53. The Clerk of Court is directed to terminate ECF No. 276 in 19-CV-1608 and ECF No. 46 in 22-MC-53. SO ORDERED.



March 10, 2022